

REMARKS

This is in response to the Office Action of April 16, 2009. Applicants gratefully acknowledge the Examiner's indication that this application is drawn to patentable subject matter. A spelling error is corrected in claim 6. An improper double hyphen (a dash) in claim 24 is replaced with a hyphen. These are non-narrowing amendments. Claims 4, 7, 16, 17, 23, 25, and 30 are cancelled, without prejudice. No new matter is introduced by this Amendment. Claims 1-3, 5, 6, 8-15, 18-22, 24, 26-29, and 31-46 remain pending in the application.

Claim objections

The objections to claims 6 and 24, stated on page 2 of the Office Action, are obviated by this Amendment.

Rejection under 35 U.S.C. § 112, ¶2 – claims 4, 7, 23, 25

Claims 4, 7, 23, and 25 were rejected under the second paragraph of 35 U.S.C. § 112 as lacking proper antecedent basis. Office Action, page 2. Claims 4, 7, 23, and 25 have been cancelled, thereby obviating this ground of rejection.

Rejection under 35 U.S.C. § 112, ¶2 – claims 16, 17, 30

On page 2 of the Office Action, claims 16, 17, and 30 were rejected under the second paragraph of 35 U.S.C. § 112, as lacking proper antecedent basis. Claims 16, 17, and 30 have been cancelled, thereby obviating this ground of rejection.

Rejoinder requested – claim 46

Claim 46, which is drawn to pharmaceutical compositions which include the claim 1 compounds, was formerly examined herein on its merits. In the Office Action of September 17, 2008, the Examiner kindly indicated that the rejection of claim 46 as being indefinite was withdrawn. It is respectfully requested that claim 46 be allowed, along with allowable claim 1 from which it depends.

Rejoinder requested – method of making

This application is the U.S. national phase of a PCT application. Accordingly, ‘unity of invention’ rules apply. 37 CFR 1.475(b)(3) provides that unity of invention exists if the claims are drawn to the combination: “A product, a process specially adapted for the manufacture of the said product, and a use of the said product.” MPEP 1893.03(d) provides that any non-elected process of making an allowable product should be considered for rejoinder, following the practice set forth in MPEP 821.04(b). Accordingly, since process claims 33 and 34 are drawn to processes of making the claim 1 compounds, rejoinder of claims 33 and 34 with allowable claim 1 is earnestly solicited.

Rejoinder requested – method of using

This application is the U.S. national phase of a PCT application, so that ‘unity of invention’ rules apply. 37 CFR 1.475(b)(3) provides that unity of invention exists if the claims are drawn to the combination: “A product, a process specially adapted for the manufacture of the said product, and a use of the said product.” MPEP 1893.03(d) provides that any non-elected process of using an allowable product should be considered for rejoinder, following the practice set forth in MPEP 821.04(b). Accordingly, since method of use claims 35-45 are drawn to methods of using the claim 1 compounds, rejoinder of claims 35-45 with allowable claim 1 is earnestly solicited. It is pointed out that claims 35-41 have previously been amended to recite methods of treating diseases or disorders and that claims 42-45 relate respectively to methods for the induction of sedation-hypnosis, anesthesia, sleep, and muscle relaxation.

Contact information

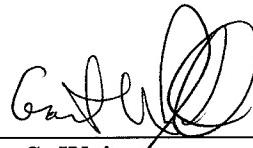
The Examiner is respectfully requested to contact Richard Gallagher, Registration No. 28,781, at (703) 205-8008 with any questions concerning this application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for

any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: July 16, 2009

Respectfully submitted,

By  #43575
Marc S. Weiner
Registration No.: 32,181 ^{for}
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Falls Church, Virginia
(703) 205-8000
Attorney for Applicant